IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.283 OF 2004

IN

SUMMARY SUIT NO. 262 of 2001

Satish P. Palan .. Plaintiff

versus

M/s.Gravyfill International .. Defendant

...

Ms.Jayal Guja i/b B.R. Dalal for the plaintiff.

Mr.A.K. Singh for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 12th April 2005.

P.C.:

1. Heard the learned counsel for the parties.

2. The plaintiff has filed on record affidavit of service of Summons for Judgement sworn by Jagdish Sharma on 5th April 2005. The learned counsel for the defendant admits receipt of the Summons for Judgement and states that Summons for Judgement was

served on him on 7th march 2005. The learned counsel for the defendant prays for time to file affidavit in reply which is objected to by the learned counsel for the plaintiff. Since more than 10 days have been passed and affidavit is still not filed and no Chamber Summons is taken out for condonation of the delay in filing of the affidavit, request is rejected.

3. The learned counsel for the plaintiff undertakes to file original documents. Undertaking is recorded and accepted. Documents to be filed within a period of two weeks. Decree not to be drawn until the documents are filed.

4. I have perused the plaint and the copies of the documents which are annexed to the plaint. The plaintiff sold, supplied and delivered to the defendant goods. Xerox copies of the invoices and delivery challan are filed on record. Since goods were returned by the defendant, credit is given to the defendant for the value of the returned goods vide Exhibit-C to the plaint, Despite demand by notice Exhibit-D, the defendant failed and neglected to make the payment. Hence, plaintiff is entitled to a decree.

5. In the absence of any application for leave to defend or any affidavit in reply, plaintiff is also entitled to a decree under Order 376 Rule 3(6) of the Code of Civil Procedure. Hence, Summons for Judgement is made absolute and suit of the plaintiff is decreed as follows:

6. The defendant shall pay to the plaintiff a sum of Rs.89,785.74 together with interest on the principal sum of Rs.55,141.74 at 9% p.a. from the date of the suit till payment and all costs of the suit.

7. Decree is not to be drawn until the documents are filed.

D.G. KARNIK, J